IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

[1] CTO KOTA **Versus** R.T. EXPORT LTD.
S.B. SALES TAX REVISION PETITION NO.136/2005

[2] CTO KOTA **Versus** R.T. EXPORT LTD.
S.B. SALES TAX REVISION PETITION NO.141/2005

DATE OF ORDER : 04/10/2006

Hon'ble Shri Justice Ajay Rastogi

Shri Vinay Goyal, for petitioner
Shri Vivek Singhal, for respondent

BY THE COURT:

Instant revision petitions have been filed by the Revenue against the order of Tax Board dated 29th October, 2004 whereby the tax and interest levied upon the assessee has been set aside.

The controversy raised in both the revision petition is covered by the judgment of this court in **Nav Bharat Rice & General Mills Vs. Commercial Taxes Officer [(2000) 120 STC 593]**.

Counsel for petitioner does not dispute with regard to the controversy raised in the present petitions was considered by this court in **Nav Bharat Rice & General Mills Vs. Commercial Taxes Officer** [supra], but submits that while examining the controversy, the relevant Notification No.F.4(67)FD/Gr.IV/76-24, dated 8th September, 1976 was rescinded by the subsequent Notification No.F.4(5)FD/Gr.IV/88-20 dated 8th March, 1988 [Ann.6] in exercise of powers conferred u/s.8(5) of Central Sales Tax Act, 1956 read with Section 21 of

General Causes Act. But, this fact was not brought to the notice by either of the party when this controversy was considered and examined by this court in **Nav Bharat Rice & General Mills Vs. Commercial Taxes Officer** [supra].

Counsel for respondent, on the other hand, submits that the controversy, which was considered and examined, is in relation to department's Notification No.F.4(67) FD/Gr.IV/76-25, dated 8th September, 1976. Pursuant to which, the exemption has been granted on payment of tax and the same remained in force for the assessment year 1996-97 assessed by the Assessing Authority impugned in the present petitions.

Counsel for respondent has further brought to my notice that the amendment has been made in the above referred Notification No.F.4(67)FD/Gr.IV/76-25, dated 8th September, 1976. In support thereof, counsel for respondent submits that even if the Notification No.F.4 (67)FD/Gr.IV/76-24, dated 8th September, 1976 stood rescinded, it will not make any effect with respect to controversy which was considered by this court.

I find substance in the submission made by the counsel for respondent and in the judgment of Tax Board Notification No.F.4(67)FD/Gr.IV/76-25, dated 8th September, 1976 has been taken note of and case of the present assessee is also covered under the said notification.

In my considered opinion, the present matters are covered by the judgment in **Nav Bharat Rice & General Mills Vs. Commercial Taxes Officer** [supra] and the factual statement made by the counsel for Revenue does not hold good.

Consequently, both the revision petitions fail and are hereby dismissed.

[Ajay Rastogi],J.

FRBOHRA,JR.P.A.